

1 **Rule 7B. Motion to enforce order and for sanctions in domestic law matters.**

2 *Effective: 5/1/0201*

3 **(a) Motion.** To enforce a court order or to obtain a sanctions order for violation of an
4 order, a party must file an ex parte motion to enforce order and for sanctions (if
5 requested), pursuant to this rule and [Rule 7](#). The motion must be filed in the same case in
6 which that order was entered. The timeframes set forth in this rule, rather than those set
7 forth in [Rule 7](#), govern motions to enforce orders and for sanctions. If the motion is to be
8 heard by a commissioner, the motion must also follow the procedures of [Rule 101](#). For
9 purpose of this rule, an order includes a decree.

10 **(b) Affidavit.** The motion must state the title and date of entry of the order that the
11 moving party seeks to enforce. The motion must be verified, or must be accompanied by
12 at least one supporting affidavit that is based on personal knowledge and shows that the
13 affiant is competent to testify on the matters set forth. The verified motion or affidavit
14 must set forth facts that would be admissible in evidence and that would support a
15 finding that the party has violated the order.

16 **(c) Proposed order.** The motion must be accompanied by a request to submit for decision
17 and a proposed order to attend hearing, which must:

18 (1) state the title and date of entry of the order that the motion seeks to enforce;

19 (2) state the relief sought in the motion;

20 (3) state whether the motion is requesting that the other party be held in contempt
21 and, if so, state that the penalties for contempt may include, but are not limited to, a
22 fine of up to \$1000 and confinement in jail for up to 30 days;

23 (4) order the other party to appear personally or through counsel at a specific place
24 (the court's address) and date and time (left blank for the court clerk to fill in) to
25 explain whether the nonmoving party has violated the order; and

26 (5) state that no written response to the motion is required, but is permitted if filed at
27 least 14 days before the hearing, unless the court sets a different time, and that any
28 written response must follow the requirements of [Rule 7](#), and [Rule 101](#) if the hearing
29 will be before a commissioner.

30 **(d) Service of the order.** If the court issues an order to attend a hearing, the moving party
31 must have the order, motion, and all supporting affidavits served on the nonmoving
32 party at least 28 days before the hearing. Service must be in a manner provided in [Rule](#)
33 [4](#) if the nonmoving party is not represented by counsel in the case. If the nonmoving party
34 is represented by counsel in the case, service must be made on the nonmoving party's
35 counsel of record in a manner provided in [Rule 5](#). For purposes of this rule, a party is
36 represented by counsel if, within the last 120 days, counsel for that party has served or
37 filed any documents in the case and has not withdrawn. The court may shorten the 28
38 day period if:

39 (1) the motion requests an earlier date; and

40 (2) it clearly appears from specific facts shown by affidavit that immediate and
41 irreparable injury, loss, or damage will result to the moving party if the hearing is not
42 held sooner.

43 **(e) Opposition.** A written opposition is not required, but if filed, must be filed at least 14
44 days before the hearing, unless the court sets a different time, and must follow the
45 requirements of Rule 7, and Rule 101 if the hearing will be before a commissioner.

46 **(f) Reply.** If the nonmoving party files a written opposition, the moving party may file a
47 reply at least 7 days before the hearing, unless the court sets a different time. Any reply
48 must follow the requirements of Rule 7, and Rule 101 if the hearing will be before a
49 commissioner.

50 **(g) Hearing.** At the hearing the court may receive evidence, hear argument, and rule upon
51 the motion, or may request additional briefing or hearings. The moving party bears the
52 burden of proof on all claims made in the motion. At the court's discretion, the court may

53 convene a telephone conference before the hearing to preliminarily address any issues
54 related to the motion, including whether the court would like to order a briefing schedule
55 other than as set forth in this rule.

56 **(h) Counter Motions.** A responding party may request affirmative relief only by filing a
57 counter motion, to be heard at the same hearing. A counter motion need not be limited
58 to the subject matter of the original motion. All of the provisions of this rule apply to
59 counter motions except that a counter motion must be filed and served with the
60 opposition. Any opposition to the counter motion must be filed and served no later than
61 the reply to the motion. Any reply to the opposition to the counter motion must be filed
62 and served at least 3 business days before the hearing in a manner that will cause the
63 reply to be actually received by the party responding to the counter motion (i.e. hand-
64 delivery, fax or other electronic delivery as allowed by rule or agreed by the parties). The
65 party who filed the counter motion bears the burden of proof on all claims made in the
66 counter motion. A separate proposed order is required only for counter motions to
67 enforce a court order or to obtain a sanctions order for violation of an order, in which case
68 the proposed order for the counter motion must:

69 (1) state the title and date of entry of the order that the counter motion seeks to enforce;

70 (2) state the relief sought in the counter motion;

71 (3) state whether the counter motion is requesting that the other party be held in
72 contempt and, if so, state that the penalties for contempt may include, but are not
73 limited to, a fine of up to \$1000 and confinement in jail for up to 30 days;

74 (4) order the other party to appear personally or through counsel at the scheduled
75 hearing to explain whether that party has violated the order; and

76 (5) state that no written response to the countermotion is required, but that a written
77 response is permitted if filed at least 7 days before the hearing, unless the court sets a
78 different time, and that any written response must follow the requirements of [Rule 7](#),
79 and [Rule 101](#) if the hearing will be before a commissioner.

80 (i) **Limitations.** This rule does not apply to proceedings instituted by the court ~~an order~~
81 ~~that is issued by the court~~ on its own initiative to enforce an order. This rule applies only
82 to domestic relations actions, including divorce; temporary separation; separate
83 maintenance; parentage; custody; child support; adoptions; cohabitant abuse protective
84 orders; child protective orders; civil stalking injunctions; grandparent visitation; and
85 modification actions. Nothing in this rule is intended to limit or alter the inherent power
86 of the court to initiate order to show cause proceedings to assess whether cases should be
87 dismissed for failure to prosecute or to otherwise manage the court's docket, or to limit
88 the authority of the court to hold a party in contempt for failure to appear pursuant to a
89 court order.

90 (j) **Orders to show cause.** The process set forth in this rule replaces and supersedes the
91 prior order to show cause procedure. An order to attend hearing serves as an order to
92 show cause as that term is used in Utah law.

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